

**Notice of Allowability**

Application No.

10/046,313

Examiner

Alexander H. Spiegler

Applicant(s)

YOKOYAMA ET AL.

Art Unit

1637

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/17/04.
2. ☒ The allowed claim(s) is/are 3,5,7 and 9-19.
3. ☒ The drawings filed on 16 January 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/17/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11/17/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it must be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's amendment was given in a telephone interview with Vincent Shier on November 17, 2004.

Please amend the claims as follows:

In Claim 3, after "oligonucleotide primer pair", delete, "composed", and insert -- consisting -- .

Claim 5 (Currently Amended) The process according to Claim 3, which is a detection method, wherein said amplifying is performed in the presence of an oligonucleotide probe which has a sequence that is complementary to at least a portion of the RNA transcription product, ~~resulting from said amplification and~~ is labeled with an intercalator fluorescent pigment, ~~and changes in the fluorescent properties of the reaction solution is measured, with the proviso that the labeled oligonucleotide and~~ has a sequence different from first oligonucleotide and the second oligonucleotide in the sequence said oligonucleotide primer pair, wherein changes in the fluorescent properties of the intercalator are measured.

Cancel Claim 6.

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Claim 12 (Currently Amended) The process of claim 3, wherein the ~~activity corresponding to~~  
~~said RNA-dependent DNA polymerase, said DNA-dependent DNA polymerase, and said~~  
~~ribonuclease H are each exhibited by the same enzyme~~ process is performed using a single  
enzyme having RNA-dependent DNA polymerase, DNA-dependent DNA-polymerase, and  
ribonuclease H activity.

In Claim 15, after, "oligonucleotide", insert -- probe --.

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*Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander H. Spiegler whose telephone number is (571) 272-0788. The examiner can normally be reached on Monday through Friday, 7:00 AM to 3:30 PM.

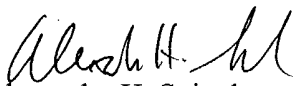
If attempts to reach the examiner are unsuccessful, the primary examiner in charge of the prosecution of this case, Carla Myers, can be reached at (571) 272-0747. If attempts to reach Carla Myers are unsuccessful, the examiner's supervisor, Gary Benzion can be reached at (571) 272-0782.

Papers related to this application may be faxed to Group 1637 via the PTO Fax Center using the fax number (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

  
Alexander H. Spiegler  
November 17, 2004

  
CARLA J. MYERS  
PRIMARY EXAMINER